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ON THE LAW OF THE SEA

SPLOS

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INTERIM REPORT

Prepared by the Tribunal

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I. INTRODUCTION

1. This interim report is presented to inform the States Parties of developments with respect to the International Tribunal for the Law of the Sea since the election of the judges on 1 August 1996. It is not intended to replace the annual report of the Tribunal to be submitted under article 6, paragraph 3 (d) of the rules of procedure of the Meetings of States Parties. The annual report will cover the calendar year. The first report will cover the period from October 1996 to December 1997. It will be submitted to the Meeting of States Parties in 1998.

2. The Tribunal was established by the 1982 United Nations Convention on the Law of the Sea. The Tribunal functions in accordance with Part XI, section 5, of the Convention, Part XV of the Convention, and the Statute of the Tribunal as contained in Annex VI to the Convention.

II. ELECTION OF THE JUDGES

3. The 21 Judges were elected by the Meeting of States Parties on 1 August 1996, from among candidates nominated by the States Parties.[1] The Judges elected, in alphabetical order, are:

Name	Country	Date of expiry of term of office
Joseph Akl	Lebanon	1 October 1999
David Anderson	United Kingdom	1 October 2005
Paul Bamela Engo	Cameroon	1 October 1999
Hugo Caminos	Argentina	1 October 2002
Gudmundur Eiriksson	Iceland	1 October 2002
Anatoly Lazarevich Kolodkin	Russian Federation	1 October 1999
Edward Arthur Laing	Belize	1 October 2002
Vicente Marotta Rangel	Brazil	1 October 1999
Mohamed Mouldi Marsit	Tunisia	1 October 2005
Thomas A. Mensah	Ghana	1 October 2005
Tafsir Malick Ndiaye	Senegal	1 October 2002
L. Dolliver M. Nelson	Grenada	1 October 2005
Choon-Ho Park	Republic of Korea	1 October 2005

Name	Country	Date of expiry of term of office
P. Chandrasekhara Rao	India	1 October 1999
Tullio Treves	Italy	1 October 2002
Budislav Vukas	Croatia	1 October 2005
Joseph Sinde Warioba	United Republic of Tanzania	1 October 1999
Rüdiger Wolfrum	Germany	1 October 1999
Soji Yamamoto	Japan	1 October 2005
Alexander Yankov	Bulgaria	1 October 2002
Lihai Zhao	China	1 October 2002

III. FORMATIVE PERIOD

4. The Tribunal's formative period took place from 1 August to the end of its first (organizational) session. The Meeting of States Parties decided that during this period, there should be an interim Registry charged with making arrangements for the transition from the services of the United Nations Secretariat to the Registry of the Tribunal.[2] Among the measures taken by the United Nations Secretariat to enable this transition was the assignment and loan of staff from the United Nations Secretariat. The Secretary-General of the United Nations assigned Mr. Gritakumar E. Chitty as Director-in-Charge of the Registry pending the election of the Registrar.

5. The Third United Nations Conference on the Law of the Sea decided that the seat of the Tribunal shall be in the Free and Hanseatic City of Hamburg in the Federal Republic of Germany.[3] On 18 October 1996, the Secretary-General of the United Nations and other high dignitaries participated in the ceremony to lay the foundation stone for the future Tribunal premises at the site on the Elbchaussee at Nienstedten in Hamburg overlooking the river Elbe. The future facility is scheduled to be ready at the end of 1999.

6. Pending completion of the future premises, the German authorities provided the Tribunal with a temporary building situated at Wexstrasse in the centre of Hamburg. The choice of this facility, an independent and secure building of moderate size, was determined in consultations between the United Nations and the German authorities. The location and the availability of two large halls, providing space for an interim courtroom and a library and adjoining archives, favoured the choice of this building.

IV. RELATIONS WITH THE HOST COUNTRY

7. As will be the case with the future premises, the temporary accommodation is provided and furnished by the host country. The Tribunal wishes to express appreciation to the Federal German Government and the City of Hamburg for the facilities which have been made available for its work. The Tribunal extends its gratitude to the relevant authorities for their continued assistance and cooperation.

V. INAUGURATION OF THE TRIBUNAL

8. The Tribunal held its first session from 1 to 31 October 1996 at its seat in Hamburg. Mr. Hans Corell, the Legal Counsel of the United Nations, presided over the meetings until the election of the President.

9. During the first session the Tribunal held its first public sitting in conjunction with the ceremony of its formal inauguration. At the public sitting the Judges made the solemn declaration prescribed by article 11 of the Statute.

10. The ceremony of inauguration took place in the City Hall of Hamburg. It was conducted by Mr. Corell assisted by Mr. Chitty. The ceremony was attended by high dignitaries including the Secretary-General of the United Nations, Mr. Boutros Boutros-Ghali; the Foreign Minister of the Federal Republic of Germany, Mr. Klaus Kinkel; and the First Mayor of Hamburg, Mr. Henning Voscherau. Also present were the President of the Meeting of States Parties, Mr. Satya Nandan, who was also Secretary General of the International Seabed Authority; the President of the Assembly of the Authority, Mr. Hasjim Djalal; and the President of the Council of the Authority, Mr. Lennox Ballah. The International Court of Justice was represented by Judge Carl August Fleischhauer and Mr. Eduardo Valencia-Ospina, Registrar of the Court. An audience of nearly 600 others, comprising representatives from over 67 countries and specially invited guests, also witnessed the event.

VI. ELECTION OF OFFICERS

A. The Judiciary

11. On 5 October 1996, the Judges elected Judge Mensah as President. Judge Wolfrum was elected Vice-President. The President and Vice-President are both to serve for a term of three years.

B. The Registry

12. The Registrar is elected for a term of seven years among candidates proposed by the Members of the Tribunal. On 21 October 1996, the Judges elected Mr. Chitty as Registrar.

13. On 25 October 1996, the Tribunal elected Mr. Philippe Gautier as Deputy Registrar for a term of seven years.

VII. WORK OF THE TRIBUNAL

A. Sessions

14. The Tribunal convened for its second session from 3 to 28 February 1997, and its third session was held from 2 to 29 April 1997. The fourth session is planned to be held from 6 to 31 October 1997.

B. Rules of the Tribunal

15. At its first session, the Tribunal began the consideration of its Rules. The Tribunal based its consideration of the Rules on the final draft Rules of the Tribunal[4] prepared by the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea and recommended to the Tribunal by the Meeting of States Parties.

16. The Tribunal provisionally adopted the Rules needed to constitute the Chamber of Summary Procedure and those necessary for the election of the President, the Vice-President, the Registrar and the Deputy Registrar. It reviewed the draft Rules presented by the Preparatory Commission and agreed on a revised structure for the provisions. The Tribunal also decided that its Rules should be user-friendly, efficient and cost-effective.

17. Work on the Rules has been undertaken in a Working Group of the Whole under the chairmanship of Judge Treves. The Working Group has used as the basis of its discussion, a set of revised draft Rules prepared by Judge Treves.

18. At the second and third sessions, the Tribunal devoted much of its time to the examination of the draft Rules. The Tribunal reached informal conclusions on the Rules dealing with the internal organization, and most of the provisions regarding the proceedings in disputes. The Tribunal intends to complete its work on the Rules at the fourth session planned for October 1997. The Rules will then be formally adopted.

19. To enable the Tribunal to deal with cases that may be brought to it in the meantime, it has decided to apply, on a provisional basis, the final draft Rules of the Tribunal prepared by the Preparatory Commission. The Tribunal is thus ready to deal with a case that may be submitted to it.

C. Constitution of chambers

20. The Tribunal constituted its Chamber of Summary Procedure at its first session. At the second session, the Tribunal constituted the Seabed Disputes Chamber, the Chamber for the Marine Environment and the Chamber for Fisheries Matters. All the chambers were constituted by consensus, on the proposal of the President following consultations carried out by him. In accordance with the Statute, the Seabed Disputes Chamber is constituted every three years while the other chambers are constituted annually.

1. Chamber of Summary Procedure

21. The Tribunal has constituted its Chamber of Summary Procedure in accordance with article 15, paragraph 3, of the Statute. The Chamber may hear and determine a case, at the request of the parties, by summary procedure. In addition, the Chamber can prescribe provisional measures in the exercise of the Tribunal's powers, if the Tribunal is not in session or a sufficient number of members is not available.[5]

22. The Chamber of Summary Procedure is composed of five members and two alternates. The President and the Vice-President of the Tribunal are ex officio members of the Chamber of Summary Procedure, the President of the Tribunal serving as President of the Chamber.

23. The composition of the Chamber, in order of precedence, is as follows:

President: Mensah

Judges: Wolfrum
Caminos
Park
Marsit

Alternates: Kolodkin
Nelson

2. Seabed Disputes Chamber

24. The Seabed Disputes Chamber is established in accordance with article 14 of the Statute. Its function is to deal with disputes arising out of the exploration and exploitation of the resources of the seabed and ocean floor beyond the limits of national jurisdiction as set out in Part XI of the Convention.

25. The Seabed Disputes Chamber consists of 11 Judges selected by the Members of the Tribunal from among themselves. As the Convention requires, the Judges of the Chamber have been selected in such a way as to ensure the representation of the principal legal systems of the world as well as equitable geographical distribution.

26. The members of the Chamber entered upon their duties forthwith and proceeded to elect the President from among their members. Judge Akl was elected President of the Chamber.

27. The composition of the Seabed Disputes Chamber, in order of precedence, is as follows:

President: Akl

Judges: Zhao
Marotta Rangel
Bamela Engo
Nelson
Chandrasekhara Rao
Anderson
Vukas
Warioba
Treves
Ndiaye

3. Chamber for Fisheries Disputes

28. The Chamber for Fisheries Disputes is established in accordance with article 15, paragraph 1, of the Statute. The Chamber is available to deal with disputes concerning the conservation and management of marine living resources which the parties may agree to submit to it.

29. The seven Judges of the Chamber entered upon their duties forthwith and proceeded to elect the President. Judge Caminos was elected President of the Chamber.

30. The composition of the Chamber for Fisheries Disputes, in order of precedence, is as follows:

President: Caminos

Judges: Yamamoto
Bamela Engo
Chandrasekhara Rao
Anderson
Laing
Eiriksson

4. Chamber for Marine Environment Disputes

31. The Chamber for Marine Environment Disputes is established in accordance with article 15, paragraph 1, of the Statute. The Chamber is available to deal with disputes relating to the protection and preservation of the marine environment which the parties may agree to submit to it.

32. The seven Judges of the Chamber entered upon their duties forthwith. Judge Wolfrum, Vice-President of the Tribunal, is ex officio President of the Chamber.

33. The composition of the Chamber for Marine Environment Disputes, in order of precedence, is as follows:

President: Wolfrum

Judges: Yankov
Yamamoto
Kolodkin
Park
Warioba
Marsit

D. Working groups and committees

34. During the first three sessions, the Tribunal entrusted the preliminary consideration of certain aspects of the work on organizational matters to ad hoc working groups. In addition to the working group of the whole on the Rules, the following working groups were established:

1. Budget and Financial Regulations, presided over by Judge Wolfrum;

2. Staff Regulations, presided over by Judge Chandrasekhara Rao;

3. Library Facilities and Publications, presided over by Judge Wolfrum.

35. At the end of the third session, formal committees were established to replace the ad hoc working groups.

1. Budget and Finance Committee

36. The Budget and Finance Committee was established to make proposals to the Tribunal on all aspects of the finances of the Tribunal. In particular, the Committee will be responsible for preparing draft proposals for the budget of the Tribunal, drafts of the Financial Regulations as well as recommendations on the financial organization of the Tribunal and the management of its finances and accounts, for consideration and decision by the Tribunal. The Committee will also examine the accounts and financial reports of the Tribunal and formulate reports and recommendations, as necessary.

2. Committee on Rules and Judicial Practice

37. The Committee on Rules and Judicial Practice will be required to keep under review the Rules of the Tribunal and their application, the Resolution on Internal Judicial Practice and the Guidelines, after they have been adopted by the Tribunal, and propose for the consideration of the Tribunal any modifications which it may consider necessary or appropriate.

3. Committee on Staff and Administration

38. The mandate of the Committee on Staff and Administration will be to make recommendations to the Tribunal on matters concerning the policies for the Administration and Staff of the Registry with special reference to the terms, conditions and procedures for recruitment, discipline and separation from the services of the Tribunal.

4. Committee on Library and Publications

39. The Committee on Library and Publications will be required to advise the Tribunal on the organization, requirements and functioning of the Tribunal's Library including, in particular, the policy and procedures for the acquisition of materials and support for the Library. The Committee will also recommend to the Tribunal arrangements for the publication programme of the Tribunal, with special regard to the nature and form of publications to be issued by the Tribunal.

E. Finances

1. Budget

40. Article 19 of the Statute states that the expenses shall be borne by the States Parties, the International Seabed Authority and other users of the Tribunal, including States that are not States Parties. The Meeting of States Parties decided to apply provisionally to States Parties the scale of assessments of the United Nations.[6]

41. The Judges examined the future budgetary requirements of the Tribunal. They reviewed the budgetary provisions provided by the States Parties for the organizational phase (August 1996 to December 1997) and identified important needs for which provision should be made in the next budget. The proposals for the budget for 1998 are being submitted to the Meeting of States Parties.

42. The matters of greatest concern to the Tribunal for the next financial year are the important professional support required in the legal, financial, budgetary, library and linguistic services with adequate support staff at the General Service level. Also of concern is the availability of a contingency fund to deal with cases being submitted to the Tribunal during the next budgetary period.

2. Library

43. The budget proposals include provisions for equipping the library of the Tribunal. Although both the General Assembly and the Preparatory Commission emphasized the need for an operational library for the Tribunal, no funds were allocated for a library in the budget for the organizational phase.[7] The absence of funds has made it impossible to establish a library adequate to meet the needs of the Tribunal and of those who will appear before it.[8]

3. Accounting and budgetary periods

44. The Tribunal proposes that its accounting year be the calendar year. It also recommends that its budgetary period should be two years.

4. Financial Regulations

45. Pending the adoption of its own regulations consistent with the Financial Regulations of the United Nations, the Tribunal applies, mutatis mutandis, the Financial Regulations of the United Nations.

F. Privileges and immunities

46. At the request of the Meeting of States Parties,[9] the Tribunal discussed the draft Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, prepared by the Preparatory Commission.[10] At its second session, the Tribunal, in response to the request, made recommendations on the draft Agreement to the Sixth Meeting of States Parties.[11] The work of the Tribunal on privileges and immunities was greatly assisted by a study prepared for it by Judge Joseph Akl, which served as the basis for the discussion of the subject.

47. The Judges also examined the final draft of the Headquarters Agreement,[12] which was approved by the Preparatory Commission and recommended to the Tribunal by the Meeting of States Parties as a basis for negotiating with the host country.[13] At the Tribunal's first session, the Judges authorized the President and the Registrar to negotiate the Headquarters Agreement with the German authorities on the basis of the draft Headquarters Agreement prepared by the Preparatory Committee. Following that decision, the President, the Vice-President and the Registrar held meetings with representatives of the Government of Germany in January, February and April.

48. Pending the conclusion of a Headquarters Agreement, the privileges and immunities of the Tribunal in the host country are provided by an interim ordinance adopted by the host country.[14] The interim arrangement applies to the Tribunal, among others, mutatis mutandis, the relevant articles of the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations of 21 November 1947.

G. Relationship with the United Nations

1. Observer status with the General Assembly

49. On 17 December 1996, pursuant to the draft resolution coordinated by the Federal Republic of Germany and sponsored by 77 Member States, the Tribunal was invited to participate in the sessions and in the work of the General Assembly in the capacity of observer. Observer status enables the Tribunal to participate in the meetings of the General Assembly when matters of relevance to the Tribunal are being considered.[15]

2. Relationship Agreement with the United Nations

50. The States Parties to the Convention recommended that the Tribunal enter into a relationship agreement with the United Nations.[16] The Tribunal decided that the President and the Registrar should consult with the United Nations in order to agree on the terms for such an agreement. Following that decision, meetings have been held between the Tribunal and the Office of Legal Affairs of the United Nations. It is expected that a relationship agreement will soon be concluded between the Tribunal and the United Nations.

3. United Nations common system

51. The Tribunal has decided to apply, mutatis mutandis, the regulations and rules of the United Nations common system to the staff of the Registry.

4. United Nations Joint Staff Pension Fund

52. The Meeting of States Parties considered that the Tribunal was too small to run its own pension fund. For this reason the Meeting of States Parties recommended that the Tribunal should participate in the United Nations Joint Staff Pension Fund.[17] At its first session the Tribunal endorsed that recommendation and requested the Registrar to maintain the application by the Tribunal for the staff of the Registry to participate in the United Nations Joint Pension Staff Fund. This application was accepted by the Board of the Pension Fund and approved by the General Assembly. Pursuant to the decision of the United Nations General Assembly, membership became effective as from 1 January 1997.

H. Relationship with other organizations and bodies

53. The Meeting of States Parties also agreed that the Tribunal should consider a possible relationship agreement with the International Seabed Authority.[18] Consultations are in progress on the terms of such an agreement.

54. Arrangements of cooperation may also be entered into with other organizations and bodies.

VIII. PUBLIC INFORMATION

55. The Tribunal has given publicity to its work by means of press releases as well as addresses and publications of the Judges, and briefings by the Registry. The Tribunal also intends to issue a Yearbook which will provide general information concerning the Tribunal's organization, activities and administration.

56. The Tribunal has approved the design of its emblem and flag. The flag was first hoisted on 11 April 1997.

IX. INCOMPATIBLE ACTIVITIES

57. At its first session the Tribunal deliberated on the issue of incompatible activities and agreed on general guidelines to assist the Judges in determining which activities might be undertaken by them. Since then, all Judges have terminated functions or positions previously held by them in which they represented or acted on behalf of a Government or a State, or performed administrative functions not compatible with their membership of the Tribunal.

X. FUTURE WORK

58. To deal with urgent organizational tasks, the Tribunal plans to hold its fourth session in October 1997, if it is possible to do so within available resources and with the approval of the States Parties. The Tribunal believes that the session is necessary and that it would be appropriate to finance the session from the allocations approved for the organizational period.

59. The work programme of the Tribunal for 1998 envisages the holding of three sessions, each of four weeks' duration. This programme of meetings is needed for the work which must be completed by the end of 1998. The three sessions are considered essential whether or not any cases have to be dealt with in 1998.

60. The major tasks to be undertaken are the following:

1. The continued review of the Rules.

2. Adoption of the Resolution on the Internal Judicial Practice of the Tribunal, which is to set out in detail the practices to be followed by the Tribunal in the discharge of its judicial function.

3. Adoption of guidelines to assist States and other entities which may appear before the Tribunal.

4. Adoption of Instructions to the Registrar.

5. Adoption of the Staff Regulations.

6. Adoption of the Financial Regulations including provision for internal and external audit of the financial operations, prescribing appropriate procedures for the management of the finances and control of financial transactions of the Tribunal.

7. Consideration of agreements of cooperation with the United Nations, the International Seabed Authority and other international organizations or bodies.

61. Other matters which the Tribunal will consider include:

1. Annual report to the Meetings of States Parties.

2. Budget proposals of the Tribunal.

3. Recommendations of the Tribunal to the Meetings of States Parties on matters relating to the Tribunal on which the Meetings have the responsibility to take decisions or make determinations.

4. Publicizing the work of the Tribunal, including the issue of a Yearbook which will contain the texts of the principal documents and reports on its work.

XI. CONCLUSION

62. The Tribunal has largely completed the task of preparing itself for operation in the temporary accommodation at its seat. It has formed the Seabed Disputes Chamber and the Chamber of Summary Procedure. It has also created special chambers to deal with disputes on fisheries matters and disputes concerning the marine environment. Considerable progress has been made in establishing the procedures to be followed by the Tribunal and the chambers in the exercise of their judicial functions. There is available a complete set of rules which will be applied in any cases, and the definitive version of the Rules is expected to be adopted formally at the session planned for October 1997. The Tribunal has decided that its proceedings shall be conducted without unnecessary delay or expense to the parties or to the Tribunal.

63. The Tribunal and its chambers are thus ready to accept cases that may be submitted to it by States Parties and entities other than States Parties. A case may be brought before the Tribunal if the parties to a dispute have made declarations under article 287 of the Convention accepting the Tribunal as a means for the settlement of disputes. Such declarations may be made at the time of signature, ratification of, or accession to the Convention, or at any time thereafter. A declaration may also be made ad hoc for the purposes of a specific dispute.

Notes

[1] The elections were conducted in accordance with the procedures and terms as set out in document SPLOS/L.3/Rev.1. The elections were recorded in document SPLOS/14, paras. 13-31.

[2] SPLOS/4, para. 35.

[3] Article 1, para. 2, of the Statute.

[4] LOS/PCN/152, vol. I (LOS/PCN/SCN.4/WP.16/Add.1), p. 26.

[5] Statute, article 25, para. 2.

[6] SPLOS/WP.3/Rev.1, para. 34.

[7] See General Assembly resolution 49/28, para. 11, and LOS/PCN/L.115/Rev.1, para. 43 (d).

[8] Through the efforts of the Judges and the staff of the Registry, a number of books, periodicals and other material has been collected.

[9] SPLOS/14, para. 39.

[10] LOS/PCN/152, vol. I (LOS/PCN/SNC.4/WP.16/Add.3), p. 115.

[11] ITLOS/CRP.28.

[12] LOS/PCN/152, vol. I (LOS/PCN/SCN.4/WP.16/Add.2), p. 91.

[13] SPLOS/14, para. 33.

[14] German Ordinance on the Privileges and Immunities of the International Tribunal for the Law of the Sea of 10 October 1996.

[15] General Assembly resolution 51/204.

[16] SPLOS/14, para. 33.

[17] Ibid., para. 35.

[18] Ibid., para. 33.

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DRAFT AGREEMENT ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Adopted by the Working Group

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DRAFT AGREEMENT ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

The States Parties to the present Agreement,

Considering that the United Nations Convention on the Law of the Sea establishes the International Tribunal for the Law of the Sea,

Recognizing that the Tribunal should enjoy such legal capacity, privileges and immunities as are necessary for the exercise of its functions,

Recalling that the Statute of the Tribunal provides, in article 10, that the Members of the Tribunal, when engaged on the business of the Tribunal, shall enjoy diplomatic privileges and immunities,

Recognizing that persons participating in proceedings and officials of the Tribunal should enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Tribunal,

Have agreed as follows:

Article 1

Use of terms

For the purposes of this Agreement:

(a) "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982;

(b) "Statute" means the Statute of the International Tribunal for the Law of the Sea in annex VI to the Convention;

(c) "States Parties" means States Parties to this Agreement;

(d) "Tribunal" means the International Tribunal for the Law of the Sea;

(e) "Member of the Tribunal" means an elected member of the Tribunal or a person chosen under article 17 of the Statute for the purpose of a particular case;

(f) "Registrar" means the Registrar of the Tribunal and includes any official of the Tribunal acting as Registrar;

(g) "officials of the Tribunal" means the Registrar and other members of the staff of the Registry;

(h) "Vienna Convention" means the Vienna Convention on Diplomatic Relations of 18 April 1961.

Article 2

Juridical personality of the Tribunal

The Tribunal shall possess juridical personality. It shall have the capacity:

(a) to contract;

(b) to acquire and dispose of immovable and movable property;

(c) to institute legal proceedings.

Article 3

Inviolability of the premises of the Tribunal

The premises of the Tribunal shall be inviolable, subject to such conditions as may be agreed with the State Party concerned.

Article 4

Flag and emblem

The Tribunal shall be entitled to display its flag and emblem at its premises and on vehicles used for official purposes.

Article 5

Immunity of the Tribunal, its property, assets and funds

1. The Tribunal shall enjoy immunity from legal process, except insofar as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

2. The property, assets and funds of the Tribunal, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, seizure, expropriation or any other form of interference, whether by executive, administrative, judicial or legislative action.

3. To the extent necessary to carry out its functions, the property, assets and funds of the Tribunal shall be exempt from restrictions, regulations, controls and moratoria of any nature.

4. The Tribunal shall have insurance coverage against third-party risks in respect of vehicles owned or operated by it, as required by the laws and regulations of the State in which the vehicle is operated.

Article 6

Archives

The archives of the Tribunal, and all documents belonging to it or held by it, shall be inviolable at all times and wherever they may be located. The State Party where the archives are located shall be informed of the location of such archives and documents.

Article 7

Exercise of the functions of the Tribunal outside the Headquarters

In the event that the Tribunal considers it desirable to sit or otherwise exercise its functions elsewhere than at its Headquarters, it may conclude with the State concerned an arrangement concerning the provision of the appropriate facilities for the exercise of its functions.

Article 8

Communications

1. For the purposes of its official communications and correspondence, the Tribunal shall enjoy in the territory of each State Party, insofar as is compatible with the international obligations of the State concerned, treatment not less favourable than that which the State Party accords to any intergovernmental organization or diplomatic mission in the matte. of priorities, rates and taxes applicable to mail and the various forms of communication and correspondence.

2. The Tribunal may use all appropriate means of communication and make use of codes or cipher for its official communications or correspondence. The official communications and correspondence of the Tribunal shall be inviolable.

3. The Tribunal shall have the right to dispatch and receive correspondence and other materials or communications by courier or in sealed bags, which shall have the same privileges, immunities and facilities as diplomatic couriers and bags.

Article 9

Exemption from taxes, customs duties and import or export restrictions

1. The Tribunal, its assets, income and other property, and its operations and transactions shall be exempt from all direct taxes; it is understood, however, that the Tribunal shall not claim exemption from taxes which are no more than charges for public utility services.

2. The Tribunal shall be exempt from all customs duties, import turnover taxes and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Tribunal for its official use.

3. Goods imported or purchased under such an exemption shall not be sold or otherwise disposed of in the territory of a State Party, except under conditions agreed with the Government of that State Party. The Tribunal shall also be exempt from all customs duties, import turnover taxes, prohibitions and restrictions on imports and exports in respect of its publications.

Article 10

Reimbursement of duties and/or taxes

1. The Tribunal shall not, as a general rule, claim exemption from duties and taxes which are included in the price of movable and immovable property and taxes paid for services rendered. Nevertheless, when the Tribunal for its official use makes major purchases of property and goods or services on which duties and taxes are charged or are chargeable, States Parties shall make appropriate administrative arrangements for the exemption of such charges or reimbursement of the amount of duty and/or tax paid.

2. Goods purchased under such an exemption or reimbursement shall not be sold or otherwise disposed of, except in accordance with the conditions laid down by the State Party which granted the exemption or reimbursement. No exemption or reimbursement shall be accorded in respect of charges for public utility services provided to the Tribunal.

Article 11

Taxation

1. The salaries, emoluments and allowances paid to Members and officials of the Tribunal shall be exempt from taxation.

2. Where the incidence of any form of taxation depends upon residence, periods during which such Members or officials are present in a State for the discharge of their functions shall not be considered as periods of residence if such Members or officials are accorded diplomatic privileges, immunities and facilities.

3. States Parties shall not be obliged to exempt from income tax pensions or annuities paid to former Members and former officials of the Tribunal.

Article 12

Funds and freedom from currency restrictions

1. Without being restricted by financial controls, regulations or financial moratoriums of any kind, while carrying out its activities:

(a) the Tribunal may hold funds, currency of any kind or gold and operate accounts in any currency;

(b) the Tribunal shall be free to transfer its funds, gold or its currency from one country to another or within any country and to convert any currency held by it into any other currency;

(c) the Tribunal may receive, hold, negotiate, transfer, convert or otherwise deal with bonds and other financial securities.

2. In exercising its rights under paragraph 1, the Tribunal shall pay due regard to any representations made by any State Party insofar as it is considered that effect can be given to such representations without detriment to the interests of the Tribunal.

Article 13

Members of the Tribunal

1. Members of the Tribunal shall, when engaged on the business of the Tribunal, enjoy the privileges, immunities, facilities and prerogatives accorded to heads of diplomatic missions in accordance with the Vienna Convention.

2. Members of the Tribunal and members of their families forming part of their households shall be accorded every facility for leaving the country where they may happen to be and for entering and leaving the country where the Tribunal is sitting. On journeys in connection with the exercise of their functions, they shall in all countries through which they may have to pass enjoy all the privileges, immunities and facilities granted by these countries to diplomatic agents in similar circumstances.

3. If Members of the Tribunal, for the purpose of holding themselves at the disposal of the Tribunal, reside in any country other than that of which they are nationals or permanent residents, they shall, together with the members of their families forming part of their households, be accorded diplomatic privileges, immunities and facilities during the period of their residence there.

4. Members of the Tribunal shall be accorded, together with members of their families forming part of their households, the same repatriation facilities in time of international crises as are accorded to diplomatic agents under the Vienna Convention.

5. Members of the Tribunal shall have insurance coverage against third-party risks in respect of vehicles owned or operated by them, as required by the laws and regulations of the State in which the vehicle is operated.

6. Paragraphs 1 to 5 of this article shall apply to Members of the Tribunal even after they have been replaced if they continue to exercise their functions in accordance with article 5, paragraph 3, of the Statute.

7. In order to secure, for Members of the Tribunal, complete freedom of speech and independence in the discharge of their functions, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their functions shall continue to be accorded, notwithstanding that the persons concerned are no longer Members of the Tribunal or performing those functions.

Article 14

Officials

1. The Registrar shall, when engaged on the business of the Tribunal, be accorded diplomatic privileges, immunities and facilities.

2. Other officials of the Tribunal shall enjoy in any country where they may be on the business of the Tribunal, or in any country through which they may pass on such business, such privileges, immunities and facilities as are necessary for the independent exercise of their functions. In particular, they shall be accorded:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question and to re-export the same free of duty to their country of permanent residence;

(c) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the State Party concerned; an inspection in such a case shall be conducted in the presence of the official concerned;

(d) immunity from legal process in respect of words spoken or written and all acts done by them in discharging their functions, which immunity shall continue even after they have ceased to exercise their functions;

(e) immunity from national service obligations;

(f) together with members of their families forming part of their household, exemption from immigration restrictions or alien registration;

(g) the same privileges in respect of currency and exchange facilities as are accorded to the officials of comparable rank forming part of diplomatic missions to the Government concerned;

(h) together with members of their families forming part of their household, the same repatriation facilities in time of international crises as are accorded to diplomatic agents under the Vienna Convention.

3. The officials of the Tribunal shall be required to have insurance coverage against third-party risks in respect of vehicles owned or operated by them, as required by the laws and regulations of the State in which the vehicle is operated.

4. The Tribunal shall communicate to all States Parties the categories of officials to which the provisions of this article shall apply. The names of the officials included in these categories shall from time to time be communicated to all States Parties.

Article 15

Experts appointed under article 289 of the Convention

Experts appointed under article 289 of the Convention shall be accorded, during the period of their missions, including the time spent on journeys in connection with their missions, such privileges, immunities and facilities as are necessary for the independent exercise of their functions. In particular, they shall be accorded:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the State Party concerned; an inspection in such a case shall be conducted in the presence of the expert concerned;

(c) immunity from legal process in respect of words spoken or written and acts done by them in discharging their functions, which immunity shall continue even after they have ceased to exercise their functions;

(d) inviolability of documents and papers;

(e) exemption from immigration restrictions or alien registration;

(f) the same facilities in respect of currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;

(g) such experts shall be accorded the same repatriation facilities in time of international crises as are accorded to diplomatic agents under the Vienna Convention.

Article 16

Agents, counsel and advocates

1. Agents, counsel and advocates before the Tribunal shall be accorded, during the period of their missions, including the time spent on journeys in connection with their missions, the privileges, immunities and facilities necessary for the independent exercise of their functions. In particular, they shall be accorded:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the State Party concerned; an inspection in such a case shall be conducted in the presence of the agent, counsel or advocate concerned;

(c) immunity from legal process in respect of words spoken or written and all acts done by them in discharging their functions, which immunity shall continue even after they have ceased to exercise their functions;

(d) inviolability of documents and papers;

(e) the right to receive papers or correspondence by courier or in sealed bags;

(f) exemption from immigration restrictions or alien registration;

(g) the same facilities in respect of their personal baggage and in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;

(h) the same repatriation facilities in time of international crises as are accorded to diplomatic agents under the Vienna Convention.

2. Upon receipt of notification from parties to proceedings before the Tribunal as to the appointment of an agent, counsel or advocate, a certification of the status of such representative shall be provided under the signature of the Registrar and limited to a period reasonably required for the proceedings.

3. The competent authorities of the State concerned shall accord the privileges, immunities and facilities provided for in this article upon production of the certification referred to in paragraph 2.

4. Where the incidence of any form of taxation depends upon residence, periods during which such agents, counsel or advocates are present in a State for the discharge of their functions shall not be considered as periods of residence.

Article 17

Witnesses, experts and persons performing missions

1. Witnesses, experts and persons performing missions by order of the Tribunal shall be accorded, during the period of their missions, including the time spent on journeys in connection with their missions, the privileges, immunities and facilities provided for in article 15, subparagraphs (a) to (f).

2. Witnesses, experts and such persons shall be accorded repatriation facilities in time of international crises.

Article 18

Nationals and permanent residents

Except insofar as additional privileges and immunities may be granted by the State Party concerned, and without prejudice to article 11, a person enjoying immunities and privileges under this Agreement shall, in the territory of the State Party of which he or she is a national or permanent resident, enjoy only immunity from legal process and inviolability in respect of words spoken or written and all acts done by that person in the discharge of his or her duties, which immunity shall continue even after the person has ceased to exercise his or her functions in connection with the Tribunal.

Article 19

Respect for laws and regulations

1. Privileges, immunities, facilities and prerogatives as provided for in articles 13 to 17 of this Agreement are granted not for the personal benefit of the individuals themselves but in order to safeguard the independent exercise of their functions in connection with the Tribunal.

2. Without prejudice to their privileges and immunities, it is the duty of all persons referred to in articles 13 to 17 to respect the laws and regulations of the State Party in whose territory they may be on the business of the Tribunal or through whose territory they may pass on such business. They also have a duty not to interfere in the internal affairs of that State.

Article 20

Waiver

1. Inasmuch as the privileges and immunities provided for in this Agreement are granted in the interests of the good administration of justice and not for the personal benefit of the individuals themselves, the competent authority has the right and the duty to waive the immunity in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the administration of justice.

2. For this purpose, the competent authority in the case of agents, counsel and advocates representing or designated by a State which is a party to proceedings before the Tribunal will be the State concerned. In the case of other agents, counsel and advocates, the Registrar, experts appointed under article 289 of the Convention and witnesses, experts and persons performing missions, the competent authority will be the Tribunal. In the case of other officials of the Tribunal, the competent authority will be the Registrar, acting with the approval of the President of the Tribunal.

Article 21

Laissez-passer and visas

1. The States Parties shall recognize and accept the United Nations laissez-passer issued to Members and officials of the Tribunal or experts appointed under article 289 of the Convention as a valid travel document.

2. Applications for visas (where required) from the Members of the Tribunal and the Registrar shall be dealt with as speedily as possible. Applications for visas from all other persons holding or entitled to hold laissez-passer referred to in paragraph 1 of this Article and from persons referred to in articles 16 and 17, when accompanied by a certificate that they are travelling on the business of the Tribunal, shall be dealt with as speedily as possible.

Article 22

Freedom of movement

No administrative or other restrictions shall be imposed on the free movement of Members of the Tribunal, as well as other persons mentioned in articles 13 to 17, to and from the Headquarters of the Tribunal or the place where the Tribunal is sitting or otherwise exercising its functions.

Article 23

Maintenance of security and public order

1. If the State Party concerned considers it necessary to take, without prejudice to the independent and proper working of the Tribunal, measures necessary for the security or for the maintenance of public order of the State Party in accordance with international law, it shall approach the Tribunal as rapidly as circumstances allow in order to determine by mutual agreement the measures necessary to protect the Tribunal.

2. The Tribunal shall cooperate with the Government of such State Party to avoid any prejudice to the security or public order of the State Party resulting from its activities.

Article 24

Cooperation with the authorities of States Parties

The Tribunal shall cooperate at all times with the appropriate authorities of States Parties to facilitate the execution of their laws and to prevent any abuse in connection with the privileges, immunities, facilities and prerogatives referred to in this Agreement.

Article 25

Relationship with special agreements

Insofar as the provisions of this Agreement and the provisions of any special agreement between the Tribunal and a State Party relate to the same subject matter, the two provisions shall, whenever possible, be treated as complementary, so that both provisions shall be applicable and neither provision shall narrow the effect of the other; but in case of conflict the provision of the special agreement shall prevail.

Article 26

Settlement of disputes

1. The Tribunal shall make suitable provisions for the settlement of:

(a) disputes arising out of contracts and other disputes of a private law character to which the Tribunal is a party;

(b) disputes involving any person referred to in this Agreement who by reason of his official position enjoys immunity, if such immunity has not been waived.

2. All disputes arising out of the interpretation or application of this Agreement shall be referred to an arbitral tribunal unless the parties have agreed to another mode of settlement. If a dispute arises between the Tribunal and a State Party which is not settled by consultation, negotiation or other agreed mode of settlement within three months following a request by one of the parties to the dispute, it shall at the request of either party be referred for final decision to a panel of three arbitrators: one to be chosen by the Tribunal, one to be chosen by the State Party and the third, who shall be Chairman of the panel, to be chosen by the first two arbitrators. If either party has failed to make its appointment of an arbitrator within two months of the appointment of an arbitrator by the other party, the Secretary-General of the United Nations shall make such appointment. Should the first two arbitrators fail to agree upon the appointment of the third arbitrator within three months following the appointment of the first two arbitrators the third arbitrator shall be chosen by the Secretary-General of the United Nations upon the request of the Tribunal or the State Party.

Article 27

Signature

This Agreement shall be open for signature by all States and shall remain open for signature at United Nations Headquarters for twenty-four months from the .... of .... 199..

Article 28

Ratification

This Agreement is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 29

Accession

This Agreement shall remain open for accession by all States. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 30

Entry into force

1. This Agreement shall enter into force 30 days after the date of deposit of the tenth instrument of ratification or accession.

2. For each State which ratifies this Agreement or accedes thereto after the deposit of the tenth instrument of ratification or accession, this Agreement shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

Article 31

Provisional application

A State which intends to ratify or accede to this Agreement may at any time notify the depositary that it will apply this Agreement provisionally for a period not exceeding two years.

Article 32

Ad hoc application

Where a dispute has been submitted to the Tribunal in accordance with the Statute, any State not a party to this Agreement which is a party to the dispute may, ad hoc for the purposes and duration of the case relating thereto, become a party to this Agreement by the deposit of an instrument of acceptance. Instruments of acceptance shall be deposited with the Secretary-General of the United Nations and shall become effective on the date of deposit.

Article 33

Denunciation

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, denounce this Agreement. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Agreement to which it would be subject under international law independently of this Agreement.

Article 34

Depositary

The Secretary-General of the United Nations shall be the depositary of this Agreement.

Article 35

Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Agreement.

OPENED FOR SIGNATURE at New York, this ... day of one thousand nine hundred and ..., in a single original, in the Arabic, Chinese, English, French, Russian and Spanish languages.

UNITED NATIONS CONVENTION
ON THE LAW OF THE SEA

SPLOS

MEETING OF
STATES PARTIES

Distr.
GENERAL

SPLOS/23
22 May 1997

ORIGINAL: ENGLISH

Meeting of States Parties
Seventh meeting
New York, 19-23 May 1997

CREDENTIALS OF REPRESENTATIVES TO THE SEVENTH MEETING OF STATES PARTIES TO THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

Report of the Credentials Committee

Chairman: Ms. Joanna DARMANIN (Malta)

1. At its 24th meeting, on 19 May 1997, the Seventh Meeting of States Parties to the United Nations Convention on the Law of the Sea appointed a Credentials Committee consisting of the following nine members: Cameroon, Croatia, Germany, Malta, Micronesia (Federated States of), Philippines, Senegal, Trinidad and Tobago and Uruguay.

2. The Credentials Committee held one meeting, on 22 May 1997.

3. Ms. Joanna Darmanin (Malta) was elected Chairman of the Committee.

4. The Committee had before it a memorandum by the Secretariat, dated 21 May 1997, on the status of credentials of representatives participating in the Seventh Meeting of States Parties to the United Nations Convention on the Law of the Sea.

5. As noted in paragraph 1 of the memorandum of the Secretariat, as orally amended during the meeting, formal credentials by the head of State or Government or by the Minister for Foreign Affairs or by any person authorized by either of them had been received by the Secretariat for the representatives of the following 57 States participating in the Seventh Meeting of States Parties: Australia, Austria, Bahrain, Belize, Brunei Darussalam, Bulgaria, China, Croatia, Cyprus, Czech Republic, Fiji, Finland, France, Georgia, Germany, Iceland, India, Indonesia, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Malaysia, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Myanmar, Namibia, Netherlands, Nigeria, Norway, Oman, Pakistan, Paraguay, Philippines, Republic of Korea, Romania,

Russian Federation, Saudi Arabia, Senegal, Singapore, Slovenia, Sri Lanka, Sudan, Sweden, the former Yugoslav Republic of Macedonia, Tonga, Trinidad and Tobago, United Republic of Tanzania and Uruguay.

6. As noted in paragraph 2 of the memorandum of the Secretariat, as orally amended during the meeting, information concerning the appointment of representatives participating in the Seventh Meeting of States Parties had been communicated by means of facsimile or in the form of letters or notes verbales from ministries, permanent missions to the United Nations or other government offices or authorities by the following 31 States participating in the Seventh Meeting of States Parties: Algeria, Angola, Antigua and Barbuda, Argentina, Bahamas, Bolivia, Brazil, Cameroon, Côte d'Ivoire, Cuba, Egypt, Ghana, Greece, Honduras, Ireland, Lebanon, Mali, Mozambique, New Zealand, Palau, Papua New Guinea, Saint Lucia, Samoa, Sierra Leone, Slovakia, Spain, Togo, Tunisia, Viet Nam, Yemen and Zambia.

7. The Chairman proposed that the Committee accept the credentials of all representatives mentioned in the memorandum of the Secretariat, supplemented by the additional information provided by the Secretariat during the meeting of the Credentials Committee, on the understanding that formal credentials of representatives referred to in paragraph 2 of the Secretariat's memorandum would be communicated to the Secretariat as soon as possible. The following draft resolution was proposed by the Chairman for adoption by the Committee:

"The Credentials Committee,

"Having examined the credentials of the representatives to the Seventh Meeting of State Parties to the United Nations Convention on the Law of the Sea referred to in paragraphs 1 and 2 of the memorandum of the Secretariat dated 21 May 1997, supplemented by the additional information provided by the Secretariat during the meeting of the Credentials Committee,

"Accepts the credentials of the representatives concerned."

8. The draft resolution was adopted by the Committee without a vote.

9. Subsequently, the Chairman proposed that the Committee recommend to the Meeting of States Parties the adoption of the following draft resolution:

"Credentials of representatives to the Seventh Meeting of States Parties to the United Nations Convention on the Law of the Sea

"The Seventh Meeting of States to the United Nations Convention on the Law of the Sea

"Approves the report of the Credentials Committee."

10. In the light of the foregoing, the present report is submitted to the Seventh Meeting of States Parties.

RECOMMENDATION OF THE CREDENTIALS COMMITTEE

11. The Credentials Committee recommends to the Seventh Meeting of States Parties the adoption of the following draft resolution:

"Credentials of representatives of the Seventh Meeting of States Parties to the United Nations Convention on the Law of the Sea

"The Seventh Meeting of the States Parties to the United Nations Convention on the Law of the Sea

"Approves the report of the Credentials Committee."